



DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-829]

Stainless Steel Wire Rod from the Republic of Korea: Preliminary Negative Determination of Circumvention of the Antidumping Order and Postponement of Final Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that U.S. imports of stainless steel round wire (SSWire) from the Socialist Republic of Vietnam (Vietnam) are not circumventing the antidumping duty (AD) order on stainless steel wire rod (SSWR) from the Republic of Korea (Korea).

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla or Byeong-hun You, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3477 or (202) 482-1018, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 15, 1998, Commerce published the order on imports of SSWR from Korea.¹ On May 18, 2021, North American Stainless (NAS) requested that Commerce initiate a circumvention inquiry, pursuant to section 781(c) of the Tariff Act of 1930, as amended (the Act), to determine whether SSWire from Vietnam involves a minor alteration to subject merchandise, such that it should be subject to the *Order*.² On February 1, 2022, Commerce

¹ See *Notice of Amendment of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Stainless Steel Wire Rod from Korea*, 63 FR 49331 (September 15, 1998) (*Order*).

² See NAS's Letter, "Request for Circumvention Ruling Pursuant to Section 781(c)," dated May 18, 2021 (Circumvention Allegation).

initiated a country-wide circumvention inquiry to determine whether U.S. imports of SSWire from Vietnam involves a minor alteration to subject merchandise, such that it should be subject to the order on SSWR from Korea.³

On March 25, 2022, Commerce selected KOS Vietnam Company Ltd., (KOS Vietnam), Kuang Tai Metal (Vietnam) Company, Ltd. (Kuang Tai Metal) and Tengyuan Wire (Vietnam) Company Limited (Tengyuan Wire), as the mandatory respondents in this circumvention inquiry.⁴ In March 2022, Commerce issued questionnaires to the three respondents.⁵ In May 2022, all three respondents submitted timely responses.⁶

Between June and August 2022, we issued multiple supplemental questionnaires to KOS Vietnam, Kuang Tai Metal, and Tengyuan Wire and received timely responses.⁷

On September 14, 2022, the domestic interested party, North American Stainless (NAS) filed pre-preliminary comments.⁸ On September 20, 2022, Tengyuan Wire submitted pre-preliminary rebuttal comments.⁹ On September 23, 2022, KOS Vietnam submitted pre-preliminary rebuttal comments.¹⁰

Scope of the Order¹¹

³ See *Stainless Steel Wire Rod from the Republic of Korea: Initiation of Circumvention Inquiry of Antidumping Duty Order*, 87 FR 5468 (February 1, 2022).

⁴ See Memorandum, “Respondent Selection,” dated March 25, 2022.

⁵ See Commerce’s Letters, “Circumvention Inquiry Initial Questionnaire,” dated March 29, 2022.

⁶ See Kuang Tai Metal’s Questionnaire Response, “Response to questionnaire dated March 29, 2022,” submitted on May 13, 2022 (Kuang Tai Metal’s Qre Response); see also KOS Vietnam’s Letter, “Initial Questionnaire Response,” dated May 17, 2022 (KOS Vietnam’s Qre Response); and Teng Yuan Wire’s Questionnaire Response, “Response to questionnaire dated March 29, 2022,” dated May 10, 2022 (Teng Yuan Wire’s Qre Response).

⁷ See Kuang Tai’s Letter, “Circumvention Supplemental Questionnaire,” dated July 06, 2022 (Kuang Tai Metal SQR); see also KOS Vietnam’s Letter, “Supplemental Questionnaire Response” dated July 13, 2022 (KOS Vietnam SQR); Tengyuan Wire’s Letter, “Circumvention Inquiry Initial Questionnaire,” dated July 20, 2022 (Tengyuan SQR); Kuang Tai Metal’s Letter, “Circumvention Inquiry 2nd Supplemental Questionnaire,” dated August 3, 2022 (Kuang Tai Metal 2nd SQR); KOS Vietnam’s Letter, “Second Supplemental Questionnaire Response, dated August 23, 2022 (KOS Vietnam 2nd SQR); and, Tengyuan Wire’s Letter, “Circumvention Inquiry Initial Questionnaire,” dated August 23, 2022 (Tengyuan Wire 2nd SQR).

⁸ See NAS’ Letter, “NAS’s Pre-Preliminary Comments,” dated September 15, 2022 (NAS Pre-Prelim Comments).

⁹ See Tengyuan Wire’s Letter, “Pre-Preliminary Rebuttal Comments,” dated September 20, 2022 (Tengyuan Wire’s Rebuttal Comments).

¹⁰ See KOS Vietnam’s Letter, “KOS Vietnam’s Pre-Preliminary Rebuttal Comments,” dated September 26, 2022 (KOS Vietnam’s Rebuttal Comments).

¹¹ See *Order*.

For a full description of the scope of the *Order*, see the Preliminary Decision Memorandum.¹²

Merchandise Subject to the Circumvention Inquiry

This circumvention inquiry covers SSWire completed in Vietnam using Korea-origin SSWR and subsequently exported from Vietnam to the United States.

Statutory and Regulatory Framework

Section 781(c) of the Act, provides that Commerce may find circumvention of an AD or CVD order when merchandise of the same class or kind as subject merchandise has been “altered in form or appearance in minor respects...whether or not included in the same tariff classification.” Further, section 781(c)(2) of the Act provides an exception that “{p}aragraph 1 shall not apply with respect to altered merchandise if the administering authority determines that it would be unnecessary to consider the altered merchandise within the scope of the {order}.”

While the Act is silent as to what factors to consider in determining whether alterations are properly considered “minor,” the legislative history of this provision indicates that there are certain factors that should be considered before reaching a circumvention determination. In conducting a circumvention inquiry under section 781(c) of the Act, Commerce has generally relied upon “such criteria as the overall physical characteristics of the merchandise, the expectations of the ultimate users, the use of the merchandise, the channels of marketing and the cost of any modification relative to the total value of the imported products.”¹³ Concerning the allegation of minor alteration under section 781(c) of the Act, Commerce examines such factors as: (1) overall physical characteristics; (2) expectations of ultimate users; (3) use of merchandise; (4) channels of marketing; and (5) cost of any modification relative to the value of the imported products.¹⁴ Each inquiry is highly dependent on the facts on the record and must be

¹² See Memorandum, “Stainless Steel Wire Rod from the Republic of Korea: Preliminary Decision Memorandum for the Circumvention Inquiry on the Antidumping Duty Order,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum) at 3-4.

¹³ See *Carbon and Certain Alloy Steel Wire Rod from Mexico: Initiation of Anti-Circumvention Inquiry of Antidumping Duty Order*, 83 FR 5405 (February 7, 2018) (citing S. rep. No 71, 100th Cong., 1st Sess. 100 (1987)).

¹⁴ *Id.*; see also *Deacero S.A. de C.V. v. United States*, 817 F.3d 1332 (Fed. Cir. 2016).

analyzed in light of those specific facts.¹⁵ Thus, along with the five factors enumerated above, Commerce may also consider the circumstances under which the products enter the United States, including, but not limited to, the timing of the entries and the quantity of merchandise entered during the circumvention review period.¹⁶

Preliminary Determination

As detailed in the Preliminary Decision Memorandum, Commerce preliminarily determines that the SSWire completed in Vietnam using Korea-origin SSWR and subsequently exported from Vietnam to the United States is not circumventing the *Order* on a country-wide basis. Accordingly, Commerce is making a negative preliminary finding of circumvention of the *Order*.

Methodology

As noted above, Commerce is conducting this circumvention inquiry in accordance with section 781(c) of the Act. For a complete description of the events that followed the initiation of these circumvention inquiries, *see* the Preliminary Decision Memorandum. A list of topics included in the Preliminary Decision Memorandum is included as an Appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Verification

¹⁵ *See, e.g., Certain Uncoated Paper from Australia, Brazil, the People's Republic of China, Indonesia, and Portugal: Affirmative Preliminary Determination of Circumvention of the Antidumping and Countervailing Duty Orders*, 82 FR 26778 (June 9, 2017), and accompanying Preliminary Decision Memorandum, at "IV. Statutory and Regulatory Framework."

¹⁶ *Id.*; *see also Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order on Certain Cut-to-Length Steel Plate from the People's Republic of China*, 74 FR 33991, 33992-93 (July 14, 2009); *Brass Sheet and Strip from West Germany: Negative Final Determination of Circumvention of Antidumping Duty Order*, 56 FR 65884 (December 19, 1991); and *Small Diameter Graphite Electrodes from the People's Republic of China: Initiation of Anticircumvention Inquiry*, 77 FR 37873 (June 25, 2012).

As provided in 19 CFR 351.307, Commerce intends to verify information relied upon in making its final determination.

Public Comment

Because Commerce intends to conduct verification, interested parties will be provided an opportunity to submit written comments (case briefs) at a date to be determined by Commerce and rebuttal comments (rebuttal briefs) within seven days after the time limit for filing case briefs.¹⁷ Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹⁸ Case and rebuttal briefs should be filed electronically via ACCESS.¹⁹ Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.²⁰

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined.

Postponement of Final Determination

In accordance with 19 CFR 351.302(b), unless expressly precluded by the statute, Commerce, may, for good cause, extend any time limit. As we indicate above, Commerce intends to conduct verification of information relied upon, pursuant to 19 CFR 351.307, prior to issuing its final determination. As such, Commerce has determined that additional time is

¹⁷ See 19 CFR 351.309(c)(1)(ii) and 351.309(d)(1). Interested parties will be notified through ACCESS regarding the deadline for submitting case briefs; see also 19 CFR 351.303 (for general filing requirements).

¹⁸ See 19 CFR 351.309(c)(2)(d)(2).

¹⁹ See 19 CFR 351.303.

²⁰ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

necessary to issue the final determination of this circumvention inquiry. Therefore, in accordance with 19 CFR 351.302(b), we are extending the deadline for issuing the final determination of this circumvention inquiry by 120 days, until April 11, 2023.

Notification to Interested Parties

This determination is issued and published in accordance with section 781(c) of the Act and 19 CFR 351.226(g)(1).

Dated: December 12, 2022.

Lisa W. Wang,
Assistant Secretary
for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

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- V. Period of Circumvention Inquiry
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